

Amy M. Samberg, Esq.
Nevada Bar No. 10212
FORAN GLENNON PALANDECH PONZI
& RUDLOFF PC
One Renaissance Tower
Two North Central Avenue, 18th Floor
Phoenix, AZ 85004
Telephone: 602-777-6230
Facsimile: 312-863-5099
Email: asamberg@fgppr.com

Casey G. Perkins, Esq.
Nevada Bar No. 12063
FORAN GLENNON PALANDECH PONZI
& RUDLOFF PC
2200 Paseo Verde Parkway, Suite 280
Henderson, NV 89052
Telephone: 702-827-1510
Facsimile: 312-863-5099
Email: cperkins@fgppr.com

Attorneys for Federal Insurance Company

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEVADA

CAROL SEWELL, as an individual,
Plaintiff,

v.

FEDERAL INSURANCE COMPANY, an
Indiana Company; CAPITAL ONE FINANCIAL
CORPORATION; DOES I-X; BLACK AND
WHITE CORPORATIONS I-X
Defendants.

Case No.

NOTICE OF REMOVAL

TO: THE HONORABLE JUDGES OF THE ABOVE-ENTITLED COURT

Pursuant to 28 U.S.C. §§ 1332, 1367(a), 1441(a) and 1446(a), Federal Insurance Company (“Federal”), hereby provides notice of the removal of the action described below from the District Court, Clark County, Nevada to this Court and in support thereof, respectfully shows:

GENERAL ALLEGATIONS

1
2
3 1. On September 5, 2017, Plaintiff Carol Sewell filed a complaint in the District Court,
4 Washoe County Nevada, as Case No. A-17-759048-C naming the Chubb Group of Insurance
5 Companies and Capital One Financial Corporation, DOES I through X, and ROE BUSINESS
6 ENTITIES I through X as defendants.

7 2. The Chubb Group of Companies is not a person, firm, partnership, or other
8 organization. Rather, it is a phrase used to describe a group of separately incorporated and
9 separately capitalized insurance companies.

10 3. On December 15, 2017, Sewell filed an Amended Complaint naming Federal in
11 place of non-entity Chubb Group of Insurance Companies.

12 4. By agreement of the parties, Federal accepted service of the Amended Complaint
13 through its counsel on December 15, 2017. Federal has not been served with a copy of a Summons.

14 5. Co-defendant Capital One Financial Corporation (“Capital One”) has consented to
15 removal of this action.

16 6. Under 28 U.S.C. § 1446(b) the 30-day time period for removal begins to run after
17 receipt by the removing defendant, through service or otherwise, of a copy of the initial pleading
18 setting forth the claim for relief upon which such action or proceeding is based, or within 30 days
19 after the service of summons upon the defendant if such initial pleading has then been filed in court
20 and is not required to be served on the defendant, whichever period is shorter. Federal is removing
21 this action within 30 days of being served with the Amended Complaint, which is the first pleading
22 naming Federal as a defendant.

23 7. Sewell alleges that her legal spouse, Karen Todd, entered into a contract with Capital
24 One for a Visa Signature credit card (the “Credit Card”). Sewell further alleges that the Credit Card
25 provided insurance in the amount of “\$250,000 against accidental loss of life while riding as a
26 passenger in, entering or exiting any licensed common carrier, so long as the passenger fare was
27 purchased with the [Credit Card].” Sewell further alleges that Todd used the Credit Card to
28 purchase a “passenger fare” for a canoe trip during a trip to Alaska, and that Todd died after falling

1 out of a canoe during that trip. Finally, Sewell alleges that she is the beneficiary of the travel
 2 accident insurance provided under the Credit Card, that she is entitled to the \$250,000 limits of that
 3 insurance, and that she submitted a claim for those limits that was wrongly denied. A copy of the
 4 Amended Complaint is included in **Exhibit A** along with all other state court filings.

5 8. Based on the above allegations, Sewell asserts claims for breach of contract, bad
 6 faith, violations of NRS 686A.310, and punitive damages.

7 9. Assignment to this court is proper because the action was pending in the District
 8 Court for Washoe County, Nevada.

9 JURISDICTION

10 10. Under 28 U.S.C. § 1441, defendants have a statutory right to remove a case from
 11 state court to a United States District Court where that case could have originally been filed in
 12 federal court. The grant of this right is authorized by Article III, Section 2 of the United States
 13 Constitution, which extends judicial power of the federal courts to controversies “between citizens
 14 of different states.” 28 U.S.C. § 1332.

15 11. Removal is proper in this case because the court has original jurisdiction of this
 16 action in which there is complete diversity of citizenship between Sewell, as the plaintiff, and
 17 Capital One and Federal as defendants, and the amount in controversy, exclusive of interest and
 18 costs, exceeds \$75,000.00. See 28 U.S.C. § 1441.

19 AMOUNT IN CONTROVERSY

20 12. While Federal denies that it is liable for any conduct that would warrant the
 21 imposition of any of the damages alleged by Sewell, it is evident from the face of the Plaintiffs’
 22 complaint that Sewell seeks damages in excess of \$75,000.00. Am. Compl. ¶¶ 10, 17.

23 13. Specifically, Sewell alleges that she is entitled to the \$250,000 limits of the travel
 24 accident insurance provided under the Credit Card. *Id.*

25 GEOGRAPHICAL DIVERSITY

26 14. Neither Capital One nor Federal is a citizen of the State of Nevada. Moreover,
 27 Capital One and Federal are informed and believe that Sewell is not a citizen or resident of any
 28

1 state where either Capital One or Federal is a citizen. Thus, complete diversity exists and this court
2 has jurisdiction over this action.

3 15. Federal is informed and believe that Sewell is now, and was at the time the complaint
4 was filed and at all intervening times, an individual domiciled in Nevada. *See* Am. Compl. ¶ 1.

5 16. Capital One is now, and was at the time the complaint was filed and at all intervening
6 times, incorporated under the laws of the State of Delaware with its principal place of business in
7 Virginia.

8 17. Federal is now, and was at the time the complaint was filed and at all intervening
9 times, incorporated under the laws of the State of Indiana with its principal place of business in
10 New Jersey.

11 18. The citizenship of defendants sued under fictitious names is disregarded. 28 U.S.C.
12 §1441(a).

13 **REMOVAL IS PROPER**

14 21. This action is pending in the District Court of Washoe County, Nevada. This court
15 embraces Washoe County. 28 U.S.C. §108. This Court is therefore the proper court to which the
16 action should be removed. 28 U.S.C. §1441(a).

17 22. This Notice of Removal is timely filed because it was filed not later than thirty days
18 after receipt of the summons and complaint by Federal, and is filed within one year of the filing of
19 the complaint. 28 U.S.C. §1446(b).

20 23. Written notice of the removal will be served on all other parties, and Federal will
21 timely file a Notice of Removed Action in District Court, Washoe County, Nevada, a true and
22 correct copy of which is attached at **Exhibit B**.

23 24. Federal reserves the right to amend or supplement this Notice of Removal.

24 ///

25 ///

26 ///

27 ///

28 ///

1 WHEREFORE, Federal hereby requests that this action now pending against it in the
2 District Court, Washoe County, Nevada be removed to this Court.

3 Dated this 12th day of January, 2018. FORAN GLENNON PALANDECH PONZI

4 & RUDLOFF PC

5
6 By: 

Amy M. Samberg
One Renaissance Tower
Two North Central Avenue, 18th Floor
Phoenix, AZ 85004

9 Casey G. Perkins
10 2200 Paseo Verde Parkway, Suite 280
11 Henderson, NV 89052

12 *Attorneys for Federal Insurance Company*

FORAN GLENNON PALANDECH PONZI & RUDLOFF PC
2200 Paseo Verde Parkway, Suite 280
Henderson, Nevada 89052

CERTIFICATE OF SERVICE

I certify that a copy of the foregoing **NOTICE OF REMOVAL** was served by the method indicated:

- ☐ **BY FAX:** by transmitting via facsimile the document(s) listed above to the fax number(s) set forth below on this date before 5:00 p.m. pursuant to EDCR Rule 7.26(a). A printed transmission record is attached to the file copy of this document(s).
- ☐ **BY U.S. MAIL:** by placing the document(s) listed above in a sealed envelope with postage thereon fully prepaid, in the United States mail at Las Vegas, Nevada addressed as set forth below.
- ☒ **BY ELECTRONIC SERVICE:** submitted to the above-entitled Court for electronic service upon the Court's Service List for the above-referenced case.

Dated: January 12, 2018.



An Employee of Foran Glennon